

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

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**FILED**

DEC 21 2001

CLERK, U.S. DISTRICT COURT  
DISTRICT OF NEVADA

IN THE MATTER OF THE EMERGENCY  
APPLICATION FOR AN ORDER  
COMPELLING ATX TECHNOLOGIES, INC.  
TO SHOW CAUSE  
WHY ATX TECHNOLOGIES, INC.,  
SHOULD NOT BE HELD IN CONTEMPT  
AND TO DIRECT  
ATX TECHNOLOGIES, INC.  
TO FORTHWITH COMPLY  
WITH THE COURT'S ORDER OF DECEMBER 10, 2001

CCA 171, LDG  
CV-S-01-1495-LDG-NA  
(Draft Order Approved  
By Both Parties)

*N.D.L.*  
*3/1/02*  
SEALED ORDER

On this ~~20<sup>th</sup>~~ of December 2001, the Court, having  
reviewed the United States' Application for an Order Compelling  
ATX Technologies, Inc., (ATX) to Show Cause why ATX Should not be  
held in Contemp and to Direct ATX to Forthwith Comply with the  
Court's Order of December 10, 2001; ATX's Motion to Reconsider  
and Motion to Quash or Alternatively, Motion to Modify the  
Court's Order; and ATX's Response to the United States of  
America's Motion to Compel and for Contempt; and having heard the  
testimony of ATX representative James Stovall and the arguments  
of counsel for the parties FINDS as follows:

On October 22, 2001, this Court entered an order  
allowing roving interceptions of the subject named in CCA 171,  
LDG.

On November 21, 2001, pursuant to the CCA 171 and the

1 Court's authority pursuant to 18 U.S.C. 2518(4), the United  
2 States sought and obtained a redacted order, directing ATX  
3 Technologies, Inc., to, inter alia, immediately and without delay  
4 furnish the FBI all information, facilities and technical  
5 assistance necessary to monitor oral communications as provided  
6 in the October 22, 2001, order.

7           ATX was duly served with the redacted order by telefax  
8 ATX, and on November 21, 2001, the FBI requested assistance as  
9 provided in the order. ATX complied without any protest or  
10 delay.

11           On December 10, 2001, the United States sought and  
12 obtained an extension of the Court's Order CCA 171X, LDG,  
13 allowing the continued roving interception of the subject named  
14 in the order. A redacted order directing ATX to furnish FBI  
15 forthwith information, facilities, and technical assistance  
16 necessary to accomplish said order was signed by this Court and  
17 served on ATX.

18           On December 18, 2001, FBI requested the same assistance  
19 from ATX that had been requested and provided on November 21,  
20 2001; however, ATX refused. Counsel for ATX asserted that  
21 compliance with the Court's order was unduly burdensome.

22           At the hearing, ATX represented that it could not  
23 guarantee a secure system to preclude the unauthorized  
24 dissemination of sealed information to the subject of CCA 171,  
25 LDG. The Court found that ATX should take all possible steps to  
26 precluded the unauthorized dissemination of sealed information to

1 the subject of CCA 171, LDG, or unauthorized individuals. ATX  
2 also expressed concern that it would lose business if its clients  
3 or potential clients learned of law enforcement's potential use  
4 of its technology to intercept communications. ATX asserted that  
5 under such circumstances the court did not have the power to  
6 order it to assist the government. The Court disagreed.  
7 Moreover, the Court noted and ATX acknowledged that its  
8 involvement with law enforcement is pursuant only to a court  
9 order.

10           The Court further FINDS that ATX is a  
11 "telecommunications carrier" and "provider of wire or electronic  
12 communication service" within the scope of 18 U.S.C. § 2518(4)  
13 and § 2522.

14           The Court further FINDS that ATX has not shown this  
15 Court through its argument and testimony that it's compliance  
16 with the Court's Order of December 10, 2001, requiring ATX to  
17 furnish FBI forthwith all information, facilities and technical  
18 assistance necessary to accomplish the government's interceptions  
19 unobtrusively and with minimum interference to the locations and  
20 service to be intercepted, is overly or unreasonably burdensome.  
21 The Court rejects ATS's argument that its due process rights have  
22 been violated or that there has been a "taking." The Court  
23 recognizes that the government is required to compensate ATX for  
24 its reasonable expenses incurred in providing such facilities or  
25 assistance.

26           The Court further FINDS that ATX can reasonably provide

1 the requested assistance to the government pursuant to the  
2 Court's Order of December 10, 2001, and that it had in the past  
3 provided such assistance.

4 The Court further rejects ATX's argument that the value  
5 of the information the FBI can obtain is very limited. The Court  
6 has determined that the government has established probable cause  
7 and necessity for the Court's Order of December 10, 2001.

8 The Court further FINDS that any violation prior to  
9 this date of this Court's order or of 18 U.S.C. § 2522 by ATX has  
10 been purged by this hearing.

11 IT IS THEREFORE THE ORDER OF THIS COURT THAT ATX shall  
12 comply forthwith with this Court's Order of December 10, 2001.

13 IT IS FURTHER ORDERED THAT ATX must identify to its  
14 counsel all persons who have had access to the Court's December  
15 10, 2001, order or its contents, or who have knowledge about this  
16 proceeding. ATX, through it counsel, must further advise all  
17 persons with access or knowledge about these proceedings to  
18 maintain such knowledge in a secure and confidential manner.

19 Dated this <sup>21<sup>st</sup></sup> ~~20<sup>th</sup>~~ of December 2001

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21   
22 THE HONORABLE LLOYD D. GEORGE  
23 UNITED STATES DISTRICT JUDGE  
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